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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Iraq

1. The Committee considered the fourteenth periodic report of Iraq (CERD/C/320/Add.3) at its 1344th and 1345th meetings (see CERD/C/SR.1344 and 1345), on 9 and 10 August 1999, and adopted, at its 1360th meeting (see CERD/C/SR.1360), on 19 August 1999, the following concluding observations.

A. Introduction

2. The Committee welcomes the fourteenth periodic report of the State party, which submitted only two years after the submission of the previous report and contains replies to issues raised by the Committee in 1997. That shows the State party's willingness to maintain a regular dialogue with the Committee. The Committee further welcomes the supplementary information provided by the State party in the annexes to the report as well as during the oral presentation. However, it regrets the limited information provided with respect to the implementation of some articles of the Convention, despite the recommendation made in the Committee's previous concluding observations that the fourteenth report should be a comprehensive one.

B. Factors and difficulties impeding the implementation of the Convention

3. The Committee notes the difficult economic and social situation prevailing in the country as a result of the war with the Islamic Republic of Iran, the Gulf War and the economic sanctions, as well as foreign military incursions in different areas of the country, which have caused human suffering as well as the destruction of part of the country's basic infrastructure and, ultimately, have had a negative impact on the full implementation of the human rights treaties, including the Convention. The Committee recalls in this respect that other human rights treaty monitoring

bodies, such as the Committee on Economic, Social and Cultural Rights (especially in its general comment No. 8 (1997)), the Committee on the Rights of the Child and the Human Rights Committee have recognized the adverse consequences of the economic sanctions on the enjoyment of human rights by the civilian population and that, in its decision 1998/114, the Subcommission on Prevention of Discrimination and Protection of Minorities appealed to the international community, and to the Security Council in particular, for the embargo provisions affecting the humanitarian situation of the population in Iraq to be lifted. The Committee also takes note of a recent report of UNICEF which describes the tragic situation of children, including the loss of many lives, as a result of the economic sanctions. Those sanctions also affect the areas inhabited by ethnic groups.

4. The Committee joins the appeals to the international community and the United Nations, in particular, the Security Council, for the lifting of those embargo provisions affecting, in particular, the humanitarian situation of the population of Iraq.

5. The fact that the State's Central Administration lacks control over the northern governorates, where large numbers of Kurds, Turkmen and Assyrians live, the infighting between Kurdish factions and foreign military incursions by foreign powers, hamper the implementation of the Convention by the State party in that region and makes it difficult for the Committee to exercise its monitoring functions.

6. Despite all the difficulties the Committee considers that the Government of Iraq maintains the competence for the implementation of its obligations under the terms of the Convention.

C. Positive aspects

7. It is noted with interest that the State party remains committed to the declaration of 1970 which recognized the ethnic, cultural and administrative rights of Kurdish citizens in the areas in which they constituted a majority, as well as to the Iraqi Kurdistan Regional Autonomy Act of 1974 by which the Autonomous Region was established as a separate administrative unit endowed with distinct personality. The laws and regulations aiming at protecting the cultural identity of the Turkoman minority and the Syriac-speaking community, dating back to the 1970s, are also commended. All those norms aiming at establishing high standards for the protection of the identity of the respective groups.

8. The Committee welcomes the measures taken by the Government of Iraq to clarify the situation of persons, including foreigners, who disappeared during the Gulf War.

9. The Committee equally welcomes the fact that an important number of refugees and other foreigners are received and live in Iraq.

10. It also welcomes the information from the Government that the internal legal order makes it possible for individuals to directly invoke the provisions of the Convention before the courts and that Iraqi legislation contains provisions prescribing penalties for acts of racial discrimination.

D. Principal subjects of concern

11. Concern is expressed as to whether, in the conditions prevailing in the northern governorates, members of minorities are able to enjoy the rights accorded to them by the legislation on autonomy and on cultural and linguistic rights.

12. Concern is also expressed over allegations that the non-Arab population living in the Kirkuk and Khanaquin areas, especially the Kurds, Turkmen and Assyrians, have been subjected by local Iraqi authorities to measures such as

forced relocation, denial of equal access to employment and educational opportunities and limitations in the exercise of their rights linked to the ownership of real estate.

13. It is also noted with concern that the situation prevailing in the northern governorates has caused much suffering and the forced displacement of a large part of the population, including for members of ethnic groups living in the area.

14. Although the Penal Code contains provisions prohibiting the establishment or membership of any association, organization or body seeking to incite intercommunal conflict or provoke feelings of hatred and animosity among the population, such provisions do not fully reflect the requirements of article 4 of the Convention.

E. Suggestions and recommendations

15. The Committee recommends that the State party, in spite of the difficulties, make all efforts to abide by its obligations under the Convention, as well as the other international human rights treaties, to respect and ensure the rights of all persons within its territory.

16. While underlining that the Government of Iraq retains the competence for the implementation of the Convention in the northern region, the Committee appeals for the establishment of a climate of peace and understanding among the different Kurdish factions and between Kurds and other persons living in the region. The Committee also appeals to the different States and forces involved in the region to stop any activities leading to or encouraging ethnic conflict and intolerance, and contribute to the peace and respect of human rights of the entire population.

17. Allegations concerning discrimination against members of ethnic minorities in the Kirkuk and Khanaquin areas, as mentioned above, should be examined by the State party. The Committee requests to be informed about the result of such investigations.

18. The Committee recommends that the State party review its legislation in order to make it comply fully with the requirements of article 4 of the Convention.

19. Measures should be taken in order to ensure that law enforcement officials receive an effective training on all matters relating to all aspects of non-discrimination covered by the Convention.

20. The State party should include in its next periodic report updated data illustrating the level of enjoyment by the different ethnic groups of the economic and social rights enshrined in article 5 of the Convention. It should also provide information about the following issues: the breakdown of the demographic composition of the population; statistics reflecting the number of persons belonging to the different minorities who are employed as civil servants in the central or local administrations; decisions issued by domestic courts as a result of complaints of racial discrimination; impact of the restrictions to the acquisition of real property, taking into account the composition of the population in the governorate of Baghdad.

21. The Committee also requests the State party to provide further information about the enjoyment by members of minorities of the right to freedom of movement and residence within the country and the right to leave their own country and return to it.

22. The Committee recommends that the text of the Convention, the periodic report, and the present concluding observations be made widely available to the public at large, also in the languages of the minorities.

23. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 during the fourteenth meeting of State parties to the Convention.

24. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered.

25. The Committee recommends that the State party's next periodic report, which was due on 13 February 1999, be a comprehensive report, and that it address the matters raised in the present concluding observations.